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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/756,876	01/10/2001	Yasuo Himuro	Q62523	6217

7590

09/30/2002

SUGHRUE, MION, ZINN, MACPEAK & SEAS
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EXAMINER

MAKI, STEVEN D

ART UNIT

PAPER NUMBER

1733

DATE MAILED: 09/30/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/756,876

Applicant(s)

HIMURO, YASUO

Examiner

Steven D. Maki

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

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- 1) The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 2) Claims 1-11 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 line 7 ambiguously refers to "the first slant land part". In claim 1 line 7, it is suggested to change "the first slant land part" to --each first slant land part--.

In claim 9, the scope of "similar to" is ambiguous. In claim 9, it is suggested to change "similar to" to --the same as--.

In claim 9, there is no antecedent basis for "the first circumferential fine groove". In claim 9, it is suggested to use the description in claim 3 to provide proper antecedent basis.

In claim 11, there is no antecedent basis for "the second auxiliary land part", "the first joint part" and "the third auxiliary land part". With respect to "the first joint part", should claim 11 depend on claim 10 which describes the first joint part?

- 3) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patent ability shall not be negative by the manner in which the invention was made.

- 4) **Claims 1, 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Himuro (JP 9-2024) in view of Hutson et al (US 5746849) and/or Europe '709.**

Himuro substantially discloses the claimed invention except for the shape of the first land part being “approximately triangular”.

As to claims 1, 6 and 8, it would have been obvious to one of ordinary skill in the art to shape the “first land parts” 3 of the directional tread of Himuro so as to be “approximately triangular” in view of (a) Hutson et al’s suggestion to shape “first land parts” 30 of a directional tread such that the first land parts are “approximately triangular” to thereby improve stiffness and/or (b) Europe ‘709’s suggestion to shape “first land parts” 16 of a directional tread such that the first land parts are “approximately triangular” using steep slant grooves in order to improve drainage.

5) **Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Himuro (JP 9-2024) in view of Hutson et al (US 5746849) and/or Europe ‘709 as applied above and further in view of Europe ‘270 (EP 565270) and Williams (US 4299264).**

As to claim 3, it would have been obvious to include a circumferential fine groove (“fine” being a relative term) in the center rib of Himuro since it is well known / conventional in the tread art to use a circumferential groove in a center rib of a directional tread as evidenced by Europe ‘270 and Williams.

6) **Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Himuro (JP 9-2024) in view of Hutson et al (US 5746849) and/or Europe ‘709 and further in view of Europe ‘270 (EP 565270) and Williams (US 4299264) as applied above and further in view of one of Fontaine (WO 99/17944), Japan ‘909 (JP 62-194909) and Ofensend (US 2327057).**

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As to claims 4 and 5, it would have been obvious to provide the circumferential groove with the claimed shape (narrow top and wide bottom / flanged shaped) in view of one of Fontaine, Japan '909 and Ofensend – Fontaine suggesting to use such a circumferential groove as a center groove in a directional tread in order to remove water from the footprint (figure 4), Japan '909 suggesting to use such a circumferential groove to increase wet performance and to reduce noise (figure 1-2) and Ofensend suggesting to use such a circumferential groove to provide resistance to side slippage while at the same time providing broad contact area.

Allowable Subject Matter

7) Claims 2, 7 and 9-11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Remarks

- 8) The remaining references are of interest.
- 9) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is 703-308-2068. The examiner can normally be reached on Mon. - Fri. 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Ball can be reached on (703) 308-2058. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

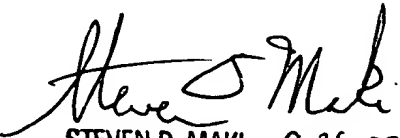
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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Steven D. Maki
September 26, 2002


STEVEN D. MAKI 9-26-02
PRIMARY EXAMINER
~~GROUP 1300~~
AU 1733